

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Billie R. Mansell)
District C2, Block 33, Parcel A26)
Residential Property) Shelby County
Tax year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject property for tax purposes as follows:¹

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$28,100	\$70,800	\$98,900	\$24,725

On February 22, 2006, the property owner filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on April 6, 2006 in Memphis. The appellant, Billie R. Mansell, represented herself at the hearing. Staff appraiser Ron Nesbit appeared on behalf of the Shelby County Assessor of Property.

Findings of Fact and Conclusions of Law

To promote equalization of the burden of property taxation, Tennessee law requires each county in the state to conduct periodic reappraisals of all parcels of real estate within its jurisdiction. See Tenn. Code Ann. sections 67-5-1601 *et seq.* Subject to the inevitable imperfections of mass appraisal systems, the counties' computerized reappraisal programs are designed to estimate market values as accurately as possible.

Typically, of course, real estate appreciates during a four-to-six-year reappraisal cycle. However, in order to prevent counties and municipalities from reaping a windfall as a result of revaluations, local governing bodies are obligated to "certify" in a year of reappraisal the tax rate that will generate the same amount of property tax revenue as in the previous year. Tenn. Code Ann. section 67-5-1701. Only after publishing notice and holding a public hearing may the governing body lawfully exceed this certified tax rate. Tenn. Code Ann. section 67-5-1702.

This appeal grew out the 2005 reappraisal in Shelby County. Like many other residents of the county, the appellant – a senior citizen on a fixed income – saw a significant increase in

¹The taxpayer appealed the Assessor's original valuation of the subject property to the county board pursuant to Tenn. Code Ann. section 67-5-1407. Ms. Mansell was satisfied with the lower value (\$85,000) recommended by the hearing officer to whom her complaint was referred; however, the Assessor took exception to that recommendation and the matter was set for a hearing before the full county board on January 4, 2006. Due to her misunderstanding of the notice of that hearing, the taxpayer did not appear at the scheduled time; and the county board decided to adopt the Assessor's value.

the value placed on her home. Ms. Mansell's one-story house, located at 914 Greenview Road in Collierville, was built in 1972 and contains 1,057 square feet of living area. The front of the home is brick; the other three sides are covered with shingles.

Ms. Mansell contended that, in its present condition, the subject property was not worth more than \$85,000. She projected that it would cost between \$10,000 and \$15,000 to complete the maintenance and repairs (e.g., painting and siding) required to make her house marketable. Because of financial constraints, Ms. Mansell lamented, she had not been able to get that work done.

In support of the value determined by the county board, the Assessor's representative submitted comparative sales data obtained from *Chandler Reports*. According to this information, the house under appeal is currently appraised just below the range of values indicated by his five selected comparables (\$94.58-\$99.72 per square foot). Two of those comparables, Mr. Nesbit noted, were located on the same block of Greenview Road as the subject.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

Since the taxpayer seeks to change the present valuation of the subject property, she has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

In the recent case of Thos. J. & Jennifer A. Robinson (Davidson County, Tax Years 2004-2005, Final Decision and Order, April 25, 2006), the appealing taxpayers argued that the *appraised* value of their residence should be reduced by the estimated cost of repairing certain flooding and access problems. The Assessment Appeals Commission rejected this claim with the following explanation:

Accepting the Robinson's contention regarding the cost to cure the cited problems, we are still left with the problem of determining what the property would sell for as of January 1, 2004 with the problems corrected. It is this value, rather than the current appraisal on the assessor's books, from which we would deduct the cost to cure problems. Otherwise we must accept the possibility advanced by the assessor, that the current appraisal adequately accounts for the flooding and boundary/access problem.

Id. at p. 1.

Respectfully, the administrative judge finds the quoted rationale equally applicable in this instance. Even assuming the accuracy of the appellant's estimate of the cost to cure deferred maintenance, the fact remains that she introduced no comparable sales or other evidence which would tend to establish the market value of the subject property. Further, the administrative judge cannot legitimately infer from the existing record that the Assessor's comparables were markedly superior to the subject in quality and/or condition at the time of sale.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$28,100	\$70,800	\$98,900	\$24,725

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 5th day of May, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Billie R. Mansell
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office
Rita Clark, Assessor of Property